

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ARDIS D. ASHLEY, #787145,)
Plaintiff,)
) No. 1:22-cv-145
-v-)
) Honorable Paul L. Maloney
MICHAEL BURGESS,)
Defendant.)
)

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff Ardis Ashley, a prisoner in the custody of the Michigan Department of Corrections, filed this civil rights lawsuit against Warden Michael Burgess. Defendant Burgess filed a motion for summary judgment alleging that Plaintiff failed to properly exhaust his administrative remedies (ECF No. 27). The Magistrate Judge issued a report recommending that Court grant Defendant's motion (ECF No. 36). Plaintiff filed objections (ECF No. 37). The Court will adopt the report and recommendation.

After being served with a report and recommendation (R&R) issued by a magistrate judge, a party has fourteen days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2). A district court judge reviews de novo the portions of the R&R to which objections have been filed. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Plaintiff submitted a grievance concerning Start Program, an alternative to segregation for prisoners diagnosed with a serious mental illness. The MDOC rejected the grievance at each step for the same reason. The relevant Policy Directive permits the MDOC to reject a

grievance where two or more prisoners file identical grievances concerning the same issue as an organized protest. In his appeals, Plaintiff did not address the reason for the rejection. In support of his motion for summary judgment, Defendant attached the grievance filed by another prisoner that used the same language to grieve the same issue and which was filed within a few days of Plaintiff's grievance.

Plaintiff objects. Plaintiff contends the basis for the rejection is nonsensical and illogical and permits the MDOC to reject a meritorious claim simply because another prisoner has the same meritorious claim.

The Court overrules Plaintiff's objection. The similarity in the language of the two grievances establishes an effort at coordination by the two prisoners and undermines the possibility of coincidence or happenstance. Plaintiff's objection does not identify any error of fact or law.

The Court, therefore, **ADOPTS** the Report and Recommendation (ECF No. 36) and **GRANTS** Defendant's motion for summary judgment (ECF No. 27). **IT IS SO ORDERED.**

Date: April 23, 2024

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge